Australian Capital Territory

Births, Deaths and Marriages Registration Act 1997

A1997-112

Republication No 34

Effective: 31 December 2021

Republication date: 31 December 2021

Last amendment made by A2021-33

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

About this republication

The republished law

This is a republication of the *Births, Deaths and Marriages Registration Act 1997* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 31 December 2021. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 31 December 2021.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).

Australian Capital Territory

Births, Deaths and Marriages Registration Act 1997

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Australian Capital Territory

Births, Deaths and Marriages Registration Act 1997

An Act relating to the registration of births, deaths, marriages, civil unions, civil partnerships and changes of name and sex, and for related purposes

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Part 1 Preliminary

1 Name of Act

This Act is the *Births, Deaths and Marriages Registration Act 1997*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere in this Act.

For example, the signpost definition '***reviewable decision***, for part 8 (Notification and review of decisions)—see section 53.' means that the term 'reviewable decision' is defined in that section for part 8.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

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4 Meaning of *adult* and *child*

In this Act:

adult means a person who—

(a) is at least 18 years old; or

(b) is under 18 years old, but is or has been married or in a civil union.

child means a person other than an adult, and includes a stillborn child.

4A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

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Part 2 Registration of births

Division 2.1 Notification of births

4B Meaning of *birth parent*—pt 2

In this part:

birth parent, of a child, means the person who gave birth to the child.

5 Notification of births

(1) If a child is born in the ACT, the responsible person must give the registrar-general written notice of the birth in accordance with subsection (2).

Maximum penalty: 5 penalty units.

(2) The notice must—

(a) include the particulars prescribed by regulation and be accompanied by any certificate required to be given to or by the relevant doctor under subsection (4); and

(b) be given to the registrar-general within—

(i) for a child born alive—7 days after the day of the birth; or

(ii) for a stillbirth—48 hours after the birth.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(3) In subsection (1):

responsible person means—

(a) if the child was born in a hospital or brought to a hospital within 24 hours after the birth—the chief executive officer of the hospital; or

(b) in any other case—the doctor or midwife responsible for the professional care of the birth parent at the birth.

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(4) If the birth is a stillbirth, a relevant doctor must, within 48 hours after the birth, give a certificate of the cause of fetal death to—

(a) if the stillbirth was in a hospital or the body of the stillborn child was brought to a hospital within 24 hours after the birth—the chief executive officer of the hospital; or

(b) in any other case—the doctor or midwife responsible for the professional care of the birth parent at the birth.

Maximum penalty: 5 penalty units.

Note If a form is approved under s 69 for a certificate, the form must be used.

(5) In subsection (4):

relevant doctor means—

(a) the doctor responsible for the professional care of the birth parent at the birth; or

(b) a doctor who examined the body of the stillborn child after the birth.

(6) An offence against this section is a strict liability offence.

(7) Subsection (4) does not apply if the relevant doctor believed, on reasonable grounds, that another doctor had given the required certificate.

Division 2.2 Registration of births

6 Meaning of *birth registration statement* for div 2.2

In this division:

birth registration statement means a statement for this division.

Note If a form is approved under s 69 for a statement, the form must be used.

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7 When registration of birth is required or authorised

(1) If a child is born in the ACT, the birth is to be registered under this Act.

(2) The birth of a child may be registered under this Act if the child—

(a) is born outside Australia; and

(b) is to become a resident of the ACT.

(3) If a child is born in an aircraft during a flight to an airport in the ACT, the birth may be registered under this Act.

(4) The birth of a child who is born outside Australia may not be registered under this Act if it is registered under a corresponding law.

(5) Despite subsection (1), the birth of a stillborn child need not be registered if the child showed no sign of a heartbeat before 20 weeks gestation.

8 Responsibility to have birth registered

(1) The parents of a child (other than a child mentioned in subsection (2) or (4)) are responsible for having the child's birth registered under this Act.

(2) The birth parent of a stillborn child who showed no sign of a heartbeat before 20 weeks gestation—

(a) is solely responsible for deciding whether to register the birth of the child; but

(b) must consult the other parent of the child before making the decision.

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(3) However, the birth parent is not required to consult the other parent if it is not reasonably practicable or appropriate in the circumstances to consult the other parent.

Examples

1 the other parent is not contactable

2 the other parent's identity is not known

3 the terms of an agreement state that the other parent must not be contacted

4 there is a risk of family or personal violence against the birth parent or another person

(4) If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered under this Act.

9 How to have the birth of a child registered

(1) A person has the birth of a child registered under this Act by signing and lodging with the registrar-general a birth registration statement that sets out the particulars that the registrar-general requires for the purpose of registering the birth.

(2) However, the registrar-general may accept a birth registration statement—

(a) that is signed by only 1 of the parents, if satisfied that—

(i) it is not practicable to obtain the signature of the other parent; or

(ii) the parent who signed is the birth parent of a stillborn child, who has decided under section 8 (2) to register the birth of the child; or

(b) that does not set out particulars required under subsection (1), if satisfied that it is not practicable to obtain the missing particulars.

(3) If the registrar-general accepts a birth registration statement for a child under subsection (2), a person's obligation to have the child's birth registered under this Act is taken to be discharged.

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(4) The registrar-general must not accept a birth registration statement from a person who is not responsible for having a child's birth registered under this Act unless the registrar-general is satisfied that—

(a) the person lodging the statement has knowledge of the particulars set out in the statement; and

(b) neither of the child's parents is able or likely to lodge a birth registration statement.

(5) The registrar-general must not refuse to accept a birth registration statement only because it is not lodged within 6 months after the day of the birth.

10 Obligation to have birth registered

(1) A person responsible for having the birth of a child registered must lodge a birth registration statement acceptable to the registrar-general with the registrar-general within 6 months after the day of the birth.

Maximum penalty: 5 penalty units.

(2) An offence against this section is a strict liability offence.

11 How births are registered

(1) The registrar-general must register a birth by making in the register an entry relating to the birth that includes the name of the child and, subject to section 14, the prescribed particulars.

(2) However, if not all the prescribed particulars are available to the registrar-general, the registrar-general may register a birth by including in the entry the prescribed particulars that are available to the registrar-general.

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12 Name of child

The registrar-general must assign a name to a child if—

(a) the name stated in the birth registration statement is a prohibited name; or

(b) the birth registration statement is lodged by both parents of the child and they satisfy the registrar-general that they are unable to agree on the child's name.

13 Dispute about child's name

(1) If there is a dispute between the parents of a child about the child's name, either parent may apply to the Magistrates Court for a resolution of the dispute.

(2) On an application under subsection (1), the Magistrates Court may—

(a) resolve the dispute about the child's name as the court considers appropriate; and

(b) order the registrar-general to register the child's name in a form specified in the order.

14 Registration of parentage details

On registration of a child's birth, the registrar-general must not include information about the identity of a child's parent in the register unless—

(a) the information is contained in a document lodged under section 5 in relation to the child; or

(b) the parents of the child apply for the inclusion of the information; or

(c) a parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent is dead or cannot join in the application because the other parent cannot be found or for any other reason; or

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(d) a parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent does not dispute the correctness of the information; or

(e) the registrar-general is entitled under an Act or a law of a State, the Commonwealth or another Territory to make a presumption about the identity of a parent of the child; or

(f) the inclusion of the information is authorised by regulation.

15 Jurisdiction of Supreme Court to order registration of birth

The Supreme Court may, on the application of an interested person or on its own initiative, order—

(a) the registration of a birth; or

(b) the inclusion of information relating to a birth or a child's parent in the register.

Division 2.3 Alteration of details of birth registration

16 Addition of details of parentage after registration of birth

(1) The registrar-general must include information about a child's parent in the register after registration of the child's birth if—

(a) the parents of the child apply for the inclusion of the information; or

(b) a parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent is dead or cannot join in the application because the other parent cannot be found or for any other reason; or

(c) a parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent does not dispute the correctness of the information; or

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(d) the Supreme Court orders the inclusion of the information; or

(e) a court makes a finding that a particular person is a parent of the child; or

(f) the registrar-general is entitled under an Act or a law of a State, the Commonwealth or another Territory to make a presumption about the identity of a parent of the child; or

(g) the inclusion of the information is authorised by regulation.

(2) An application to the registrar-general for the addition of registrable information in the register must—

(a) be made in writing; and

(b) include the information required by the registrar-general; and

(c) if the registrar-general requires verification of the information in the application—be accompanied by a statement verifying the information and any other evidence that the registrar-general requires.

Note 1 If a form is approved under s 69 for this provision, the form must be used.

Note 2 A fee may be determined under s 67 for this provision.

Note 3 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(3) On application by an interested person, the Supreme Court may order that the register be amended—

(a) by omitting or adding specified information about a child's parentage; or

(b) by adding information that relates to the marriage, civil union or civil partnership of the child's parents.

(4) This section does not limit section 40 (Correction of register).

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(5) In this section:

information does not include information relating to a change of sex by a parent of the child.

Division 2.4 Substitute parent information

16A Registration of parentage order

(1) If the registrar-general receives a sealed copy of a parentage order made under the *Parentage Act 2004*, section 26, or a corresponding parentage law, the registrar-general must register the order.

(2) The registrar-general must keep an index of registered parentage orders.

(3) The registrar-general must bring this division to the notice of anyone providing information to the registrar-general about the birth of a child about whom a parentage order has been made.

16B Re-registration of birth if parentage order made

(1) If the registrar-general receives a sealed copy of a parentage order mentioned in section 16A (1) for a child whose birth is registered under this Act, the registrar-general must re-register the birth of the child by entering in the register—

(a) particulars, from the copy of the parentage order, of—

(i) the child's name after the order was made; and

(ii) the child's sex, date and place of birth; and

(iii) the substitute parent or substitute parents of the child in whose favour the order was made; and

(b) a notation to the entry, signed and dated by the registrar-general, to the effect that the birth of the child is registered under this subsection.

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(2) On re-registering the birth of a child under subsection (1), the registrar-general must sign and date a notation, written on the page of the register that contains the original entry of the birth, to the effect that the birth of the child has been re-registered under subsection (1) on a stated page of the register.

(3) If a parentage order relates to a child who has previously been adopted, the registrar-general must re-register the birth of the child as if the entry relating to the adoption were the original entry of the child's birth.

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Part 3 Change of name

Division 3.1 Change of name—generally

17 Change of name by registration

A person's name may be changed by registration of the change under this part.

18 Application to register change of adult's name

A person who is an adult may apply to the registrar-general for registration of a change of the person's name if—

(a) the person is domiciled or resident in the ACT; or

(b) the person's birth is registered in the ACT.

Note 1 If a form is approved under s 69 for an application, the form must be used.

Note 2 A fee may be determined under s 67 for this section.

19 Application by parent to register change of child's name

(1) The parents of a child may apply to the registrar-general for registration of a change of the child's name if—

(a) the child is domiciled or resident in the ACT; or

(b) the child's birth is registered in the ACT.

Note 1 If a form is approved under s 69 for an application, the form must be used.

Note 2 A fee may be determined under s 67 for this section.

(2) An application for registration of a change in a child's name may be made by 1 parent if—

(a) the applicant is the sole parent named in the register or in a register kept under a corresponding law or the law of any place outside Australia; or

(b) there is no other surviving parent of the child; or

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(c) for a child whose birth is registered in the ACT, the child's name—

(i) has been changed under a law of the Commonwealth or a corresponding law; or

(ii) should be changed having regard to an order or finding of any court in Australia; or

(d) the Supreme Court has approved under subsection (3) the proposed change of name.

(3) The Supreme Court may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.

(4) The Supreme Court must not dispose of an application under subsection (3) unless satisfied that the registrar-general has been notified of the application.

(5) If the parents of a child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities to a child, a person with parental responsibility for the child may apply for registration of a change of the child's name.

Note A fee may be determined under s 67 for this section.

19A Application by young person to register change of given name

A young person may apply to the registrar-general for registration of a change of any of the person's given names if—

(a) either—

(i) the young person is domiciled or resident in the ACT; or

(ii) the young person's birth is registered in the ACT; and

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(b) the young person is—

(i) at least 16 years old and the application is made to better reflect their gender identity; or

(ii) at least 12 years old, but not yet 16 years old and—

(A) the parents of the young person consent to the application; or

(B) if it is not practicable or reasonable to obtain the consent of both parents—1 parent consents to the application; or

(C) if a circumstance prescribed by regulation applies—a stated person with parental responsibility for the young person consents to the application; or

(iii) not yet 16 years old and the ACAT has granted leave under part 4A (ACAT leave for certain applications) for the young person to apply.

Note A fee may be determined under s 67 for this provision.

20 Registration of change of name

(1) The registrar-general must register a change of name.

(2) However, the registrar-general must not register a change of name unless satisfied—

(a) of the identity and age of the person whose name is to be changed; and

(b) that the change is not sought for a fraudulent or other improper purpose; and

(c) if the application is under section 19 and relates to a child who is at least 14 years old (other than a young person mentioned in paragraph (d))—that the child either consents to the change of

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name or cannot understand the meaning or implications of the change of name; and

(d) if the application is for registration of a change of any of a young person's given names under section 19, and the application relates to a young person who has been granted leave by the ACAT for registration of a change of any of the young person's given names under section 29H—that the young person consents to the change of given name.

(3) Also, the registrar-general may require the applicant to provide any evidence that is necessary to satisfy the registrar-general—

(a) that any particular or information set out in the application is correct; or

(b) of any matter mentioned in subsection (2).

(4) The registrar-general must register a change of name if satisfied that the name of a person whose birth is registered in the ACT—

(a) has been changed under a law of the Commonwealth or a corresponding law; or

(b) should be changed having regard to an order or finding of any court in Australia.

(5) Subject to subsection (4) and section 19 (3), the registrar-general must not register a change of name if, as a result of the change, the name would become a prohibited name.

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21 Change of name entries in register

(1) This section applies if the registrar-general registers a change of name for a person whose birth is registered in the ACT or under a corresponding law.

(2) The registrar-general must—

(a) either—

(i) if the person's birth is registered in the ACT—

(A) alter the register by changing the person's name in the entry relating to the person's birth; or

(B) if the applicant for registration of the change of name asks the registrar-general to note the change of name in the particulars of the person's birth—note the change of name in the entry relating to the person's birth; or

(ii) if the person's birth is registered under a corresponding law—notify the relevant registering authority of the change of name; and

Note For how documents may be served, see the Legislation Act, pt 19.5.

(b) include in the register any particulars prescribed by regulation.

Note A fee may be determined under s 67 for this section.

(3) Any birth certificate issued by the registrar-general for the person must—

(a) if the register is altered under subsection (2) (a) (i) (A)—show the person's name as changed on the front side of the certificate; or

(b) if the change of name is noted in the register under subsection (2) (a) (i) (B)—note the person's name as changed on the reverse side of the certificate.

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22 Change of name may still be established by repute or usage

This part does not prevent a change of name by repute or usage.

Division 3.2 Change of name—restricted people

22A Definitions—div 3.2

In this division:

change of name application, in relation to a restricted person, means an application under this Act, division 3.1, or a law of another jurisdiction corresponding to this Act, for registration of a change of the restricted person's name.

corresponding parole law—see the *Crimes (Sentence Administration) Act 2005*, section 162.

relevant director-general means—

(a) for a restricted person serving a sentence of imprisonment—the director-general of the administrative unit responsible for the *Corrections Management Act 2007*; or

(b) for a restricted person the subject of a parole order under the *Crimes (Sentence Administration) Act 2005* or a corresponding parole law—the director-general of the administrative unit responsible for the *Crimes (Sentence Administration) Act 2005*.

restricted person means a person who—

(a) is serving a sentence of imprisonment (including by full-time detention, intensive correction order, drug and alcohol treatment order or release on licence); or

(b) is the subject of a parole order under the *Crimes (Sentence Administration) Act 2005* or a corresponding parole law.

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22B Application for approval for restricted person to make change of name application

A restricted person may apply, in writing, to the relevant director-general for approval to make a change of name application.

Note 1 If a form is approved under s 69 for an application, the form must be used.

Note 2 A fee may be determined under s 67 for an application.

22C Decision on s 22B application

(1) Within 30 days after the day the relevant director-general receives an application mentioned in section 22B, the relevant director-general must—

(a) approve the application; or

(b) refuse the application.

(2) The relevant director-general may approve the application only if satisfied that the proposed change of name is in all the circumstances necessary or reasonable.

(3) However, the relevant director-general must not approve the application if satisfied that the proposed change of name would, if registered, be reasonably likely to—

(a) adversely affect the security, discipline or good order of any premises or facility at which the restricted person is held or accommodated; or

(b) jeopardise the restricted person's or another person's health or safety; or

(c) be used to further an unlawful activity or purpose; or

(d) be used to evade or hinder the supervision of the restricted person; or

(e) be regarded as offensive by a victim of crime or an appreciable sector of the community.

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22D Notice of decision

If the relevant director-general makes a decision on an application mentioned in section 22B, the relevant director-general must give written notice of the decision to—

(a) the person who made the application; and

(b) the registrar-general.

Note Written notice of the decision must be given to the person and the registrar-general as soon as possible (see Legislation Act, s 151B).

22E Offences—restriction on change of name application by restricted person etc

(1) A restricted person commits an offence if—

(a) the person makes a change of name application; and

(b) the relevant director-general has not approved the making of the application under section 22C.

Maximum penalty: 5 penalty units.

(2) A person commits an offence if—

(a) the person, on behalf of a restricted person, makes a change of name application; and

(b) the relevant director-general has not approved the making of the application under section 22C.

Maximum penalty: 5 penalty units.

(3) An offence against this section is a strict liability offence.

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22F Registrar-general must not register change of name without relevant director-general's approval

The registrar-general must not register a change of name under section 20 if the registrar-general—

(a) knows that the change of name application is made by or on behalf of a restricted person; and

(b) has not received a notice under section 22D from the relevant director-general approving the making of the change of name application.

22G Registrar-general may correct register

Without limiting section 40 (Correction of register), the registrar-general may correct the register if—

(a) the name of a restricted person was changed because of an application under division 3.1; and

(b) the relevant director-general did not approve the making of the application under section 22C.

22H Information-sharing

(1) The relevant director-general—

(a) must notify the registrar-general of the following details in relation to each restricted person:

(i) the restricted person's name (including any other name by which the restricted person is or has previously been known);

(ii) the restricted person's date of birth;

(iii) the restricted person's current residential address, or if the restricted person is serving a sentence of imprisonment, the person's residential address immediately before being taken into custody; and

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(b) may give the registrar-general other information necessary for the relevant director-general's exercise of functions under this division.

(2) The registrar-general—

(a) if the circumstances in section 22F (a) and (b) apply—must notify the relevant director-general about the change of name application; and

(b) may give the relevant director-general other information necessary for the relevant director-general's exercise of functions under this division.

22I Protection of security sensitive information

(1) This section applies if the relevant director-general decides to refuse an application for approval to make a change of name application under section 22C (1) (b).

(2) The relevant director-general is not required under this Act or any other territory law to give reasons for the director-general's decision to the extent that giving those reasons would disclose security sensitive information.

(3) In this section:

security sensitive information means information that relates to actual or suspected criminal activity (whether in the ACT or elsewhere) the disclosure of which could reasonably be expected to—

(a) prejudice a criminal investigation; or

(b) enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement; or

(c) endanger a person's life or physical safety; or

(d) adversely affect the security, discipline or good order of any premises or facility at which a restricted person is held or accommodated; or

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(e) adversely affect the supervision of a restricted person.

22J ACAT or court review—security sensitive information

(1) This section applies if—

(a) the relevant director-general decides to refuse an application for approval (an ***approval application***) to make a change of name application under section 22C (1) (b) because, or partly because, of information the relevant director-general considers is security sensitive information; and

(b) the applicant for the approval application applies to the ACAT or a court for review of the relevant director-general's decision.

(2) The relevant director-general must apply to the ACAT or the court for a decision about whether the information is security sensitive information.

(3) The application need not be served on anyone unless the ACAT or the court otherwise orders on its own initiative.

(4) The ACAT or the court may decide that the information is, or is not, security sensitive information.

(5) If the ACAT or the court decides that the information is security sensitive information, in deciding an application for review of the relevant director-general's decision to refuse the approval application, the ACAT or the court—

(a) must ensure security sensitive information is not disclosed in any reasons for the decision; and

(b) must, unless the relevant director-general otherwise agrees, receive evidence and submissions in private in the absence of the public, the applicant for review, the applicant's representative and any other interested party.

(6) In this section:

security sensitive information—see section 22I (3).

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Part 4 Change of sex

Division 4.1 People with birth registered in the ACT

24 Application to alter register to record change of sex

(1) A person may apply to the registrar-general for alteration of the record of the person's sex in the registration of the person's birth if—

(a) the person is—

(i) at least 16 years old; or

(ii) at least 12 years old, but not yet 16 years old and—

(A) the parents of the young person consent to the application; or

(B) if it is not practicable or reasonable to obtain the consent of both parents—1 parent consents to the application; or

(C) if a circumstance prescribed by regulation applies—a stated person with parental responsibility for the young person consents to the application; or

(iii) not yet 16 years old and the ACAT has granted leave under part 4A (ACAT leave for certain applications) for the young person to apply; and

(b) the person's birth is registered in the ACT; and

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(c) the person believes their sex to be the sex nominated in the application (the ***altered sex***), and—

(i) has received appropriate clinical treatment for alteration of the person's sex; or

(ii) is an intersex person.

Note 1 If a form is approved under s 69 for this provision, the form must be used.

Note 2 A fee may be determined under s 67 for this provision.

(2) The parents of, or a person with parental responsibility for, a child may apply to the registrar-general for alteration of the record of the child's sex in the registration of the child's birth if—

(a) the child's birth is registered in the ACT; and

(b) the parents, or person with parental responsibility, believe on reasonable grounds that alteration of the record of the child's sex is in the best interests of the child; and

(c) the child—

(i) has received appropriate clinical treatment for alteration of the child's sex; or

(ii) is an intersex person; and

(d) the child has not applied under subsection (1) (a) for alteration of the record.

(3) However, an application under subsection (2) may be made by 1 parent if—

(a) the applicant is the only parent named in the register; or

(b) there is no other surviving parent of the child.

(4) An application under this section must set out, or be accompanied by, the particulars prescribed by regulation.

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25 Evidence in support of application

(1) An application under section 24 for alteration of the record of the sex of a person must be accompanied by—

(a) a statement by a doctor, or a psychologist, certifying that the person—

(i) has received appropriate clinical treatment for alteration of the person's sex; or

(ii) is an intersex person; and

(b) for an application under section 24 (2)—a statement that the applicant believes that the alteration of the record of the child's sex is in the best interests of the child; and

(c) documents confirming that the person was born in the Territory or has had their birth registered in the Territory; and

(d) any other documents and information that are prescribed.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(2) In this section:

psychologist means a person registered under the *Health Practitioner Regulation National Law (ACT)* to practise in the psychology profession (other than as a student).

26 Alteration of register

On receipt of an application under section 24, the registrar-general must—

(a) make the required alteration to the register; or

(b) refuse to make the required alteration.

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27 Issue of birth certificates

(1) A birth certificate issued by the registrar-general in relation to a person must show the person's sex in accordance with the record as altered.

(2) The registrar-general may issue a birth certificate showing a person's sex before the alteration of the record if application for the certificate is made—

(a) by the person; or

(b) by a child of the person; or

(c) by a person specified by regulation.

(3) A birth certificate mentioned in this section must not include any word or statement to the effect that the person to whom the certificate relates has changed sex.

28 Use of old birth certificate to deceive

(1) A person commits an offence if—

(a) the person produces a birth certificate to someone else that shows a person's sex before the record was altered; and

(b) the person produces the certificate with intent to deceive.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(2) It is not a defence to a prosecution for an offence against this section that the document in relation to which the prosecution is brought refers to the defendant.

(3) In this section:

birth certificate includes—

(a) a copy of a birth certificate; and

(b) an extract from a birth certificate.

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29 Entitlement not affected by change of sex

A person who has an entitlement under a will, trust or territory law does not lose the entitlement only because the person's sex has been altered on the register, unless the will, trust or territory law provides otherwise.

Division 4.2 ACT residents with birth registered elsewhere

29A Application for recognised details certificate

(1) A person may apply to the registrar-general for a document that acknowledges a person's name and sex (a ***recognised details certificate***) if—

(a) the person is—

(i) at least 16 years old; or

(ii) at least 12 years old, but not yet 16 years old and—

(A) the parents of the young person consent to the application; or

(B) if it is not practicable or reasonable to obtain the consent of both parents—1 parent consents to the application; or

(C) if a circumstance prescribed by regulation applies—a stated person with parental responsibility for the young person consents to the application; or

(iii) not yet 16 years old and the ACAT has granted leave under part 4A (ACAT leave for certain applications) for the young person to apply; and

(b) the person is domiciled or resident in the ACT; and

(c) the person's birth is registered in a place other than the ACT; and

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(d) the person believes their sex to be the sex nominated in the application (the ***altered sex***), and—

(i) has received appropriate clinical treatment for alteration of the person's sex; or

(ii) is an intersex person.

Note 1 If a form is approved under s 69 for an application, the form must be used.

Note 2 A fee may be determined under s 67 for an application.

(2) The parents of, or a person with parental responsibility for, a child may apply to the registrar-general for a recognised details certificate for the child if—

(a) the child is domiciled or resident in the ACT; and

(b) the child's birth is registered in a place other than the ACT; and

(c) the parents, or person with parental responsibility, believe on reasonable grounds that a recognised details certificate for the child is in the best interests of the child; and

(d) the child—

(i) has received appropriate clinical treatment for alteration of the child's sex; or

(ii) is an intersex person.

(3) However, an application under subsection (2) may be made by 1 parent if—

(a) the applicant is the only parent named in a register kept under a corresponding law or the law of any place outside Australia; or

(b) there is no other surviving parent of the child.

(4) An application under this section must set out, or be accompanied by, the particulars prescribed by regulation.

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29B Evidence in support of application for recognised details certificate

(1) An application under section 29A (1) for a recognised details certificate must be accompanied by—

(a) a statutory declaration by a doctor, or a psychologist, certifying that the person—

(i) has received appropriate clinical treatment for alteration of the person's sex; or

(ii) is an intersex person; and

(b) documents confirming that—

(i) the person is domiciled or resident in the ACT; and

(ii) the person's birth is registered in a place other than the ACT; and

(c) any other documents and information prescribed by regulation.

Note 1 The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

Note 2 It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(2) An application under section 29A (2) for a recognised details certificate must be accompanied by—

(a) a statement signed by the parents of, or a person with parental responsibility for, the child stating that a recognised details certificate for the child is in the best interests of the child; and

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(b) a statutory declaration by a doctor, or a psychologist, certifying that the child—

(i) has received appropriate clinical treatment for alteration of the child's sex; or

(ii) is an intersex person; and

(c) documents confirming that—

(i) the child is domiciled or resident in the ACT; and

(ii) the child's birth is registered in a place other than the ACT; and

(d) any other documents and information prescribed by regulation.

(3) In this section:

psychologist means a person registered under the *Health Practitioner Regulation National Law (ACT)* to practise in the psychology profession (other than as a student).

29C Issue of recognised details certificate

(1) On receipt of an application under section 29A, the registrar-general must—

(a) issue a recognised details certificate; or

(b) refuse to issue the certificate.

(2) The certificate must not state the applicant's former sex or former name (if any) unless the applicant has requested, in writing, that the information be included.

(3) The registrar-general may, if the registrar-general considers it appropriate, include in the certificate any other information about the applicant's birth that the applicant has requested, in writing, be included.

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29D Effect of recognised details certificate and interstate recognised details certificate

(1) A person to whom a recognised details certificate relates is, for the purposes of, but subject to, any territory law, a person of the sex stated in the certificate.

(2) A person to whom an interstate recognised details certificate relates is, for the purposes of, but subject to, any territory law, a person of the sex stated in the certificate.

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Part 4A ACAT leave for certain applications

29E Application by young person for leave to apply for change of given name or sex etc

(1) A young person who is not yet 16 years old may apply to the ACAT for leave to apply to the registrar-general—

(a) under section 19A for registration of a change of any of the person's given names; or

(b) under section 24 for alteration of the record of the person's sex in the registration of the person's birth; or

(c) under section 29A for a recognised details certificate.

Note If leave is granted under this part to a young person, no further leave is needed by the young person for any further application of the same kind—see s 29H (3).

(2) A young person may apply to the ACAT for leave under this section only if the person satisfies the relevant requirement mentioned in section 19A (a), section 24 (1) (b) or section 29A (1) (b).

(3) Also, a young person who is not yet 12 years old may apply to the ACAT for leave under this section only if the ACAT is satisfied that—

(a) at least 1 parent, or a person with parental responsibility for the young person, consents to the application being made; and

(b) exceptional circumstances apply to the young person, for example, the young person has socially transitioned their gender identity by showing a definite and consistent gender identity over a reasonable period.

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(4) The young person—

(a) must state in the application that they understand the ACAT must give notice about the application to each parent or person with parental responsibility for the young person under section 29F (1) (a); and

(b) may make a submission to the ACAT that they do not want those people to be notified because the young person would be adversely affected.

Note The ACAT must not notify a parent, or a person with parental responsibility for the young person, about the application if doing so could reasonably be expected to adversely affect the young person (see s 29F (1) (b)).

(5) To remove any doubt, a young person who makes an application under this part is not legally incompetent only because of the person's age.

29EA Copy of birth certificate for ACAT

(1) If an application for leave is made under section 29E, the ACAT may ask the registrar-general, in writing, for a copy of the applicant's birth certificate.

(2) The registrar-general must, if asked under subsection (1), give the ACAT a copy of the applicant's birth certificate.

29F Notification about application

(1) Subject to subsection (2), the ACAT—

(a) must take reasonable steps to notify the following people about the application:

(i) each parent or person with parental responsibility for the young person;

(ii) the public advocate; and

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(b) must not notify a parent, or a person with parental responsibility for the young person, about the application if doing so could reasonably be expected to adversely affect the young person.

(2) If a young person makes a submission under section 29E (4) (b) about a parent or a person with parental responsibility for the young person being notified about the application—

(a) the ACAT must, after considering the submission, decide if giving notice under subsection (1) (a) (i) could reasonably be expected to adversely affect the young person; and

(b) if the ACAT decides that the young person could not reasonably be expected to be adversely affected by the notification, the ACAT must give the young person a written notice stating—

(i) the reasons for its decision; and

(ii) that the young person may, in writing, withdraw their application before the end of a stated period of at least 14 days after the day the notice is given to the young person; and

(iii) that, if the application is not withdrawn before the end of the stated period, the ACAT will notify each parent or person with parental responsibility for the young person in accordance with subsection (1).

(3) For this section, a young person is not ***adversely affected*** by an application if the only reason they are affected is that a parent, or a person with parental responsibility, disagrees with the application and that disagreement causes the young person discomfort.

(4) For notification under subsection (1) (a), the ACAT—

(a) may give each parent or person with parental responsibility for the young person any of the following:

(i) an extract of information taken from the application;

(ii) a copy of the application;

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(iii) documents or evidence attached to the application (in full or in part); and

(b) must give the public advocate the following:

(i) a copy of the application;

(ii) documents or evidence attached to the application (in full).

Note For other material that the public advocate must be given—see s 29G (4).

29G ACAT hearing an application for leave etc

(1) An application for leave under section 29E may proceed to a hearing—

(a) if a submission under section 29E (4) (b) is made by the young person—

(i) after the end of the stated period under section 29F (2) (b) (ii); or

(ii) before the end of the stated period if the young person gives the ACAT written confirmation that the young person wants the application to proceed; or

(b) in any other case—14 days after the application is lodged.

(2) The hearing must be held in private.

(3) Subject to subsections (4) and (5), a private hearing is taken to be a hearing to which the *ACT Civil and Administrative Tribunal Act 2008*, section 39 (Hearings in private or partly in private) applies.

Note Requirements for keeping private hearings secret are set out in the *ACT Civil and Administrative Tribunal Act 2008*, s 40.

(4) The ACAT must give the public advocate a copy of any document lodged with the ACAT or received in evidence for the hearing.

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(5) The public advocate—

(a) may attend the hearing at any stage (for the whole or any part of the hearing); and

(b) may make submissions at the hearing about any matter relating to the application or the hearing.

Note The public advocate may also be required to report to the ACAT about a matter—see the *Human Rights Commission Act 2005*, s 27BA.

(6) In addition to the young person and the public advocate, a parent or a person with parental responsibility for the young person may also make submissions at the hearing in relation to the application, but only about the matters mentioned in section 29H (1).

(7) A person who attends a hearing, or makes a submission under subsection (5) or (6), is not a party to the application.

(8) The ACAT may, by order, give directions prohibiting or restricting the disclosure by a person who attends a hearing, or makes a submission under subsection (5) or (6), of evidence given at the hearing, or of a matter contained in a document lodged with the tribunal or received in evidence by the tribunal for the hearing.

Note A similar order may be given to a party to the application under the *ACT Civil and Administrative Tribunal Act 2008*, s 39.

(9) The ACAT may make an order under subsection (8) on application by the young person or on its own initiative.

(10) A person must not contravene an order under subsection (8).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

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29H ACAT deciding an application for leave

(1) The ACAT must, by order, grant an application for leave under section 29E if satisfied on reasonable grounds that—

(a) the young person has sufficient decision-making ability to understand the meaning and legal implications of the change; and

(b) the young person believes that the change would better reflect their gender identity.

(2) In deciding the application for leave, it is not relevant for the ACAT to consider whether—

(a) the change is in the best interests of the young person; or

(b) any other requirement under this Act in relation to the change is satisfied.

(3) If the ACAT grants the application for leave in relation to a young person—

(a) for leave relating to registration of a change of any of the person's given names under section 19A—no further leave is required by the young person for any further application to register a change of any of the person's given names; or

(b) for leave relating to alteration of the record of the person's sex in the registration of the person's birth under section 24—no further leave is required by the young person for any further application to register alteration of the record of the person's sex; or

(c) for leave relating to a recognised details certificate under section 29A—no further leave is required by the young person for any further application for a recognised details certificate.

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29I Copy of order for registrar-general

(1) The registrar-general may ask the ACAT, in writing, for a copy of an order made under section 29H in relation to a young person.

(2) The ACAT must, if asked under subsection (1), give the registrar-general a copy of the order.

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Part 5 Registration of marriages

30 When registration of marriages is required

If a marriage is solemnised in the ACT, the marriage is to be registered under this Act.

31 How to have a marriage registered

A person may have a marriage registered by lodging with the registrar-general a certificate of marriage under the *Marriage Act 1961* (Cwlth) or, if the marriage was solemnised before the commencement of that Act, any evidence of the marriage that the registrar-general may require.

32 How marriages are registered

The registrar-general must register a marriage by—

(a) including the marriage certificate as part of the register; or

(b) including in the register the particulars of the marriage that are prescribed.

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Part 5A Civil unions

32A Registration of civil union

If a civil union is entered into under the *Civil Unions Act 2012*, section 9 (How civil union is entered into), the civil union must be registered under this Act.

32B How civil union is registered

(1) If a civil union is entered into before the registrar-general, the registrar must register the civil union by including in the register the particulars of the civil union prescribed by regulation.

(2) If a civil union is entered into before another civil union celebrant under the *Civil Unions Act 2012*, the celebrant must give the following to the registrar-general not later than 2 weeks after the day the civil union is entered into:

(a) written notice of the civil union;

(b) the notice given to the celebrant under the *Civil Unions Act 2012*, section 8 (Notice of intention to enter into civil union) for the civil union.

Maximum penalty: 5 penalty units.

Note If a form is approved under s 69 for this provision, the form must be used.

(3) If a notice is given to the registrar-general under subsection (2), the registrar must register the civil union by including in the register the particulars of the civil union prescribed by regulation.

(4) An offence against this section is a strict liability offence.

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32C Particulars of end of civil union

(1) This section applies if a civil union ends under the *Civil Unions Act 2012*, section 12 (Ending civil union by parties) or section 14 (Ending civil union by court order).

(2) The registrar-general must include in the register the particulars of the termination prescribed by regulation.

(3) Also, for a civil union that ends under the *Civil Unions Act 2012*, section 12, the registrar-general must give each party to the civil union written notice that the civil union ends on the date stated in the notice.

Note If a form is approved under s 69 for this provision, the form must be used.

(4) For subsection (3), it is sufficient if the registrar-general sends the notice to the address for each party that is last known to the registrar.

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Part 5B Civil partnerships

32D Particulars of civil partnership

(1) This section applies if the registrar-general registers a relationship as a civil partnership under the *Domestic Relationships Act 1994*, section 37F (Decision on application).

(2) The registrar-general must include in the register the particulars of the civil partnership prescribed by regulation.

32E Particulars of end of civil partnership

(1) This section applies if a civil partnership ends under the *Domestic Relationships Act 1994*, section 37I (Ending civil partnership by parties) or section 37K (Ending civil partnership by court order).

(2) The registrar-general must include in the register the particulars of the end of the civil partnership prescribed by regulation.

(3) Also, for a civil partnership that ends under the *Domestic Relationships Act 1994*, section 37I, the registrar-general must give each party to the civil partnership written notice that the civil partnership ends on the date stated in the notice.

Note If a form is approved under s 69 for this provision, the form must be used.

(4) For subsection (3), it is sufficient if the registrar-general sends the notice to the address for each party that is last known to the registrar.

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Part 6 Registration of deaths

Division 6.1 When registration of deaths is required or authorised

33 When registration to happen

(1) This section has effect subject to section 34.

(2) If a person dies in the ACT, the death is to be registered under this Act.

(3) If a person dies in an aircraft during a flight to an airport in the ACT, the death may be registered under this Act.

(4) If—

(a) a person who is domiciled or ordinarily resident in the ACT dies outside Australia; or

(b) a person dies outside Australia leaving property in the ACT;

the death may be registered under this Act.

(5) The registrar-general is not required to register a death under subsection (3) or (4) if the death is registered under a corresponding law.

(6) If a child is stillborn, the child's death is not to be registered under this part.

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34 Circumstances in which deaths are not to be registered

(1) The registrar-general must not register a death unless the registrar-general has been given—

(a) a notice under section 35; or

(b) a notice under the *Coroners Act 1997*, section 56; or

(c) a document issued, made or given under the law of a State, the Commonwealth, another Territory or any other place that the registrar-general is satisfied is equivalent to a document mentioned in paragraph (a) or (b).

(2) However, the registrar-general must register a death if satisfied—

(a) that a court of the Territory, a State, the Commonwealth or another Territory has found that a person whose death is not registered in the register died in the ACT; or

(b) that, having regard to the circumstances of the case, it is proper that the death be registered.

Division 6.2 Notification and registration of deaths

35 Notification of deaths by doctors

(1) A doctor must give the registrar-general written notice of the death and cause of death of a person within 48 hours after the death if the doctor—

(a) was responsible for the deceased person's medical care immediately before the death; or

(b) examined the body of the deceased person after the death; or

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(c) has considered information about the deceased person's medical history and the circumstances of the deceased person's death and is able to form an opinion as to the probable cause of death.

Maximum penalty: 5 penalty units.

Examples—par (c)

- examining medical records or speaking to the deceased person's treating doctor
- account of someone who was with the deceased person when the person died or who discovered the deceased person's body

Note If a form is approved under s 69 for a notice, the form must be used.

(2) An offence against this section is a strict liability offence.

(3) This section does not apply if the doctor believed, on reasonable grounds, that—

(a) another doctor had given the required notice; or

(b) the death had been reported to a coroner under the *Coroners Act 1997*.

36 Certificates of deaths subject to inquests

If a death that is subject to a coronial inquest has been registered before a finding about the cause of death has been made, a death certificate issued before the coronial inquest is completed must be endorsed in the way that the registrar-general considers appropriate to indicate that fact.

37 Notification by funeral directors etc

(1) If a funeral director or someone else arranges for the disposal of human remains in the ACT, the person must, within 7 days after the day the remains are disposed, give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:

(a) the name and last home address of the deceased person;

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(b) if the death was reported to a coroner—that fact;

(c) where and how the remains were disposed of;

(d) any other information required by regulation.

Maximum penalty: 5 penalty units.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(2) If a funeral director or someone else arranges for human remains (other than cremated remains) to be removed from the ACT, the person must, within 28 days after the day the remains are disposed of outside the ACT, give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:

(a) the name and last home address of the deceased person;

(b) if the death was reported to a coroner—that fact;

(c) where and how the remains were disposed of;

(d) any other information required by regulation.

Maximum penalty: 50 penalty units.

(3) If a funeral director or someone else has the custody of human remains that have not been disposed of within 30 days after the day of the death, the person must give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:

(a) the name and last home address of the deceased person;

(b) if the death was reported to a coroner—that fact;

(c) any other information required by regulation.

Maximum penalty: 10 penalty units

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(4) An offence against this section is a strict liability offence.

(5) In this section:

disposal, in relation to human remains, means—

(a) cremation; or

(b) burial, including burial at sea; or

(c) placing the remains in a mausoleum or other permanent resting place; or

(d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or

(e) removal from the ACT, unless the remains have been cremated.

funeral director means a person who carries on the business of arranging for the disposal of human remains.

human remains includes the remains of a stillborn child.

38 How deaths are registered

(1) The registrar-general must register a death by making in the register an entry about the death that includes the particulars prescribed by regulation.

(2) However, if not all the prescribed particulars are available for the registrar-general, the registrar-general may register the death by including in the entry the prescribed particulars that are available to the registrar-general.

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38A Information about tissue donation

(1) This section applies in relation to a deceased person who was a tissue donor and whose death is or is to be registered under this Act.

(2) On request by a next of kin of the deceased person, the registrar-general must include in the register a statement that the person was a tissue donor.

(3) The request must be in writing and include information verifying that the deceased person was a tissue donor.

(4) In this section:

***next of kin*—**see the *Transplantation and Anatomy Act 1978*, dictionary.

tissue donor—a deceased person was a ***tissue donor*** if tissue was removed from the person's body under a consent given in accordance with the *Transplantation and Anatomy Act 1978*, part 3 (Donations of tissue after death).

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Part 7 The register and other records

Division 7.1 Keeping the register

39 The register

(1) The registrar-general must maintain a register or registers of registrable events.

(2) The register—

(a) must contain the particulars of each registrable event required under this or any other Act to be included in the register; and

(b) may contain any further information that is authorised by this Act or a regulation.

(3) The register may be completely or partly in the form of a computer database, in documentary form or in any other form that the registrar-general considers appropriate.

(4) The registrar-general must maintain the indexes to the register that are necessary to make the information in the register reasonably accessible.

40 Correction of register

(1) The registrar-general may correct the register—

(a) to reflect a finding made on an inquiry under division 7.2; or

(b) to bring an entry about a particular registrable event into conformity with the most reliable information available to the registrar-general of the registrable event.

(2) The registrar-general must, if satisfied that, in view of a finding of a court, an entry in the register is incorrect, correct the register in accordance with the finding.

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(3) A correction of the register is effected by adding or cancelling an entry or by adding, altering or deleting a particular contained in an entry.

(4) In this section:

court means a court of the Territory, the Commonwealth, a State or another Territory.

Division 7.2 Inquiries

41 Registrar-general's powers of inquiry

(1) The registrar-general may conduct the inquiries that the registrar-general considers appropriate to find out—

(a) whether a registrable event has happened; or

(b) particulars of a registrable event; or

(c) whether particulars of a particular registrable event have been correctly recorded in the register.

(2) The registrar-general may, by notice given to a person who, in the registrar-general's opinion, may be able to provide information relevant to an inquiry under this section, require the person to answer a specified question or to provide other information within a time and in a way specified in the notice.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(3) A person commits an offence if the person fails to comply with a notice given to the person under subsection (2).

Maximum penalty: 50 penalty units.

Note The Legislation Act, s 170 and s 171 deals with the application of the privilege against self-incrimination and client legal privilege.

(4) An offence against this section is a strict liability offence.

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Division 7.3 Access to, and certification of, register entries

42 Access to register

(1) A person may apply to the registrar-general for—

(a) access to the register; or

(b) the provision from the register of the information stated in the application.

Note A fee may be determined under s 67 for this section.

(2) The registrar-general may give the applicant access to the register, or give the applicant any of the stated information that is available, if satisfied that—

(a) the applicant has an adequate reason for wanting the access or the information; and

(b) the giving of the access or information is in accordance with the statement of policies under section 46.

(3) The access or information—

(a) must be given subject to the conditions stated in the statement of policies under section 46; and

(b) may be given subject to any other conditions that are reasonable and necessary to protect the privacy of anyone to whom an entry in the register relates.

(4) In deciding, for subsection (2) (a), whether an applicant has an adequate reason, the registrar-general must have regard to—

(a) the nature of the applicant's interest; and

(b) the sensitivity of the information to be accessed or provided; and

(c) the use to be made of the information.

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(5) The registrar-general may also have regard to any other relevant consideration.

(6) In this section:

information does not include information that may be applied for under section 43.

43 Search of register

(1) A person may apply to the registrar-general for a search of the register for an entry about a particular registrable event.

Note A fee may be determined under s 67 for this section.

(2) The registrar-general may search the register for the entry if satisfied that—

(a) the applicant has an adequate reason for wanting the information; and

(b) the giving of the information is in accordance with the statement of policies under section 46.

(3) In deciding whether an applicant has an adequate reason, the registrar-general must have regard to—

(a) the matters mentioned in section 42 (4); and

(b) the relationship (if any) between the applicant and the person to whom the information relates; and

(c) the age of the entry; and

(d) the contents of the entry.

(4) The registrar-general may also have regard to any other relevant consideration.

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44 Protection of privacy

In providing information extracted from the register, the registrar-general must, as far as practicable, protect a person to whom the entry in the register relates from unreasonable intrusion into the person's privacy.

45 Issue of certificates

(1) On completing a search of the register under section 43 (2), the registrar-general must issue a certificate—

(a) certifying the particulars contained in an entry that, having regard to subsection (2) and section 44, may be provided; or

(b) certifying that no entry was located in the register about the relevant registrable event.

(2) For subsection (1) (a), if an entry in the register includes the word 'illegitimate', or any other term indicating that a child was born outside marriage, the entry is taken not to include the word or term.

(3) On completing a search of the register under section 43 (2), the registrar-general may also issue an integrated birth certificate to an adopted person if the person has requested the certificate and the registrar-general is satisfied that—

(a) either—

(i) the person's birth was registered in the ACT and an adoption order in relation to the person was made in the ACT or another State or Territory; or

(ii) the person was born in a country outside Australia and an adoption order in relation to the person was made in the ACT; and

(b) the adopted person is entitled to access information in relation to their adoption under the *Adoption Act 1993*, part 5.

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(4) In this section:

integrated birth certificate, in relation to an adopted person, means a certificate about the person's birth that includes information included on the register—

(a) about the adopted person's parents, and any siblings included on the register at the time of registration of the person's birth; and

(b) about the date of the adoption; and

(c) about the adopted person's parents, and any siblings included on the register at the time of registration of the person's adoption; and

(d) prescribed by regulation as required on an integrated birth certificate.

46 Access policies

(1) The registrar-general must maintain a written statement of the policies on which, and of any conditions subject to which—

(a) access to the register is to be given or denied under section 42; or

(b) information from the register is to be provided or refused under section 42 or section 43.

(2) The registrar-general must give a copy of a statement under subsection (1) to a person who requests it—

(a) in person or by telephone during normal business hours; or

(b) by mail or electronic means.

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Division 7.4 Additional information and services

47 Registrar-general may collect other information

(1) The registrar-general may establish and maintain records of information, other than registrable information, relating to registrable events.

(2) Records maintained under this section must be kept separately from the register.

(3) The registrar-general may include information in the records maintained under this section at the request of a person interested in the registrable event to which the information relates or on the registrar-general's own initiative.

48 Additional services

(1) The registrar-general may enter into an agreement or arrangement with a person for the provision of services in relation to the discharge of a function under this Act.

Note A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, def ***entity***).

(2) The services that may be provided under subsection (1) include, but are not limited to, the provision of—

(a) information in the form of a decorative certificate or other document; or

(b) information from records maintained under section 47; or

(c) information, whether from the register or from records maintained under section 47, prepared in a form that facilitates historical or genealogical research.

(3) The registrar-general may charge, for the provision of a service under this section, the fee that is agreed with the recipient of the service.

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(4) A fee under subsection (3) is not required to bear any relationship to—

(a) the cost of providing the relevant service; or

(b) any fee determined under section 67 (Determination of fees).

(5) An agreement or arrangement under subsection (1) is taken, because of this subsection, to include provisions to the effect that—

(a) the registrar-general must not provide any service unless satisfied that the person to whom it is to be provided has an adequate reason for wanting it; and

(b) for the purpose of deciding whether a reason is adequate for paragraph (a), the registrar-general is to have regard to the matters set out in section 42 (3) (a) to (d); and

(c) section 44 is to apply to the provision of a service that relates to the records maintained under section 47.

Division 7.5 Offences

50 Unauthorised access to, or interference with, register

A person commits an offence if the person—

(a) does any of the following:

(i) obtains access to the register, records maintained under section 47 or information contained in the register or those records;

(ii) makes, alters or deletes an entry in the register or those records;

(iii) interferes with the register or those records in any other way; and

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(b) does so without the registrar-general's authority.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

51 Confiscation of forged etc instruments

(1) The registrar-general may confiscate—

(a) an instrument that purports to have been made for this Act or the repealed Act if the registrar-general believes, on reasonable grounds, that the instrument has a forged impression of the registrar-general's signature or seal or is forged or falsified; or

(b) a certificate under this Act or the repealed Act about a registrable event if the entry in the register about the event has been cancelled or corrected since the issue of the certificate.

(2) If the registrar-general believes on reasonable grounds that a person has in the person's possession a certificate or other instrument mentioned in subsection (1), the registrar-general may—

(a) require the person to surrender the certificate or document immediately to the registrar-general; or

(b) by written notice sent to the person, require the person to surrender the certificate or document to the registrar-general within 14 days of the date of the notice.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(3) A person commits an offence if the person fails to comply with a requirement made of the person, or a notice given to the person, under subsection (2).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note The Legislation Act, s 170 and s 171 deals with the application of the privilege against self-incrimination and client legal privilege.

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52 Confiscation of erroneous or false instruments

(1) The registrar-general may confiscate a certificate or other instrument issued under this Act or the repealed Act in error or because of fraud.

(2) If the registrar-general believes on reasonable grounds that a certificate or other instrument issued under this Act or the repealed Act was issued in error or because of fraud, the registrar-general may—

(a) require the person who appears to have possession of the certificate or instrument to surrender it immediately to the registrar-general; or

(b) by written notice sent to the person who appears to have possession of the certificate or instrument, require the person to surrender it to the registrar-general within 14 days of the date of the notice.

(3) A person commits an offence if the person fails to comply with a notice given to the person under subsection (2).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Note The Legislation Act, s 170 and s 171 deals with the application of the privilege against self-incrimination and client legal privilege.

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Part 8 Notification and review of decisions

53 Meaning of *reviewable decision*—pt 8

In this part:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

54 Reviewable decision notices

(1) If a decision-maker makes a reviewable decision, the decision-maker must give a reviewable decision notice to each person mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The decision-maker must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

(2) In this section:

decision-maker, for a reviewable decision, means—

(a) the registrar-general; or

(b) a relevant director-general.

relevant director-general—see section 22A.

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55 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

(a) a person mentioned in schedule 1, column 4 in relation to the decision;

(b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

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Part 10 Miscellaneous

65 Certificate evidence

(1) A certificate or other instrument that purports to state information obtained by the registrar-general under this Act or the repealed Act is evidence of the matters stated in it if it purports—

(a) to be signed and sealed by the registrar-general; or

(b) to have attached to it, or be otherwise authenticated by, a facsimile of the registrar-general's signature and seal produced by a stamp, machine imprint or any other method authorised by regulation.

(2) An interstate recognition certificate is, for the purposes of any territory law, evidence that the person mentioned in it is of the sex stated in the certificate.

(3) An interstate recognised details certificate is, for the purposes of any territory law, evidence that the person mentioned in it is of the sex stated in the certificate.

(4) In this section:

interstate recognition certificate means a certificate issued under a corresponding law.

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66 Arrangements with States and other Territories

(1) The Minister may enter into an arrangement with the Minister responsible for the administration of a corresponding law providing for—

(a) the exercise by the registrar-general of functions of the registering authority under the corresponding law; or

(b) the exercise by the registering authority under the corresponding law of functions of the registrar-general under this Act; or

(c) a matter mentioned in subsection (3).

(2) If an arrangement is in force under this section—

(a) the registrar-general may exercise, to the extent authorised by the arrangement, but subject to any conditions of the arrangement, the functions of the registering authority under the corresponding law; and

(b) the registering authority under the corresponding law may exercise, to the extent authorised by the arrangement, but subject to any conditions of the arrangement, the functions of the registrar-general under this Act.

(3) An arrangement under this section may—

(a) provide for the establishment of a database in which information is recorded for the benefit of all the participants in the arrangement; or

(b) provide for access to information contained in the database; or

(c) provide for payments by or to participants in the arrangement for services provided under the arrangement.

Note A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, def ***entity***).

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67 Determination of fees

(1) The Minister may determine fees for this Act.

Note The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

68 Power to remit fees

The registrar-general may, if satisfied that it is appropriate to do so, refund, or remit the payment of, any fee or part of a fee.

69 Approved forms

(1) The registrar-general may approve forms for this Act.

(2) If the registrar-general approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

70 Regulation-making power

(1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(2) A regulation may make provision in relation to—

(a) the provision of copies of, or extracts from, entries in the register about relevant children; and

(b) the making, correction or cancellation of entries in the register about relevant children.

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(3) A regulation may also prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 10 penalty units for offences against a regulation.

(4) In this section:

relevant children—a child is a ***relevant child*** if a parentage order has been made about the child under—

(a) the *Parentage Act 2004*, section 26; or

(b) a corresponding parentage law.

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Schedule 1 Reviewable decisions

(see pt 8)

column 1 item	column 2 section	column 3 decision	column 4 person
1	12 (a)	assign name to child	parent
2	20 (2)	refuse to register change of name	applicant
3	20 (5)	refuse to register change of name	applicant
4	22C (1) (b)	refuse approval to make a change of name application in relation to a restricted person	applicant
5	22F	refuse to register change of name in relation to a restricted person	applicant
6	26 (b)	refuse to alter register to record change of sex	applicant
7	29C	refuse to issue recognised details certificate	applicant
8	68	refuse to refund or remit payment of fee or part of fee	applicant

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Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- ACT
- change
- civil partnership
- civil union
- Commonwealth
- coroner
- doctor
- exercise
- fail
- function
- instrument (see s 14)
- intersex person
- penalty unit (see s 133)
- registrar-general
- reviewable decision notice
- under.

adult—see section 4.

birth includes a stillbirth.

birth certificate means a certificate issued under section 27 (2) or section 45 certifying particulars contained in an entry in the register of a person's birth.

birth parent, of a child, for part 2 (Registration of births)—see section 4B.

birth registration statement, for division 2.2 (Registration of births)—see section 6.

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change of name application, in relation to a restricted person, for division 3.2 (Change of name—restricted people)—see section 22A.

child—see section 4.

corresponding law means a law of a State or another Territory that provides for the registration of births, deaths and marriages.

corresponding parentage law means a law of a State or another Territory relating to parentage and includes a law prescribed by regulation to be a corresponding parentage law.

corresponding parole law, for division 3.2 (Change of name—restricted people)—see section 22A.

death does not include a stillbirth.

interstate recognised details certificate means a recognised details certificate (however described) issued under a corresponding law.

parental responsibility, for a child or young person—see the *Children and Young People Act 2008*, section 15.

parents, of a child, means the parents jointly.

prohibited name means a name that—

(a) is obscene or offensive; or

(b) could not practically be established by repute or usage—

(i) because it is too long; or

(ii) because it consists of or includes symbols without phonetic significance in the English language; or

(iii) for any other reason; or

(c) includes or resembles an official title or rank; or

(d) is misleading because of similarity with the name of a body or organisation; or

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(e) is, in the registrar-general's opinion, undesirable; or

(f) is prohibited by regulation.

recognised details certificate—see section 29A (1).

register means a register maintained under section 39.

registering authority means an authority responsible under a corresponding law for the registration of births, deaths and marriages.

registrable event means a birth, death, marriage, civil union, civil partnership, change of name or change of sex.

registrable information means information that is to be or may be included in the register.

relevant director-general, for division 3.2 (Change of name—restricted people)—see section 22A.

repealed Act means the *Registration of Births, Deaths and Marriages Act 1963*.

restricted person, for division 3.2 (Change of name—restricted people)—see section 22A.

reviewable decision, for part 8 (Notification and review of decisions)—see section 53.

stillbirth means the birth of a stillborn child.

stillborn child means a child of at least 20 weeks gestation who shows no sign of respiration or heartbeat, or other sign of life, immediately after birth.

young person means a person who is not yet 18 years old.

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

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3 Legislation history

Births, Deaths and Marriages Registration Act 1997 A1997-112
notified 24 December 1997 (Gaz 1997 S420)
s 1, s 2 commenced 24 December 1997 (s 2 (1))
remainder commenced 24 June 1998 (s 2 (3))

as amended by

Births, Deaths and Marriages Registration (Amendment) Act 1998 A1998-12
notified 25 June 1998 (Gaz 1998 S170)
s 1, s 2 commenced 25 June 1998 (s 2 (1))
remainder commenced 24 June 1998 (s 2 (2))

Artificial Conception Amendment Act 2000 A2000-51
notified 28 September 2000 (Gaz 2000 No 39)
s 1, s 2 commenced 28 September 2000 (IA s 10B)
remainder commenced 17 November 2000 (s 2 and Gaz 2000 No S65)

Legislation (Consequential Amendments) Act 2001 A2001-44 pt 35
notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 35 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Parentage Act 2004 A2004-1 sch 1 pt 1.4
notified LR 18 February 2004
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))
sch 1 pt 1.4 commenced 22 March 2004 (s 2 and CN2004-3)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.8
notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.8 commenced 9 April 2004 (s 2 (1))

Health Professionals Legislation Amendment Act 2004 A2004-39 sch 5 pt 5.2
notified LR 8 July 2004
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))
sch 5 pt 5.2 commenced 7 July 2005 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 and CN2005-11)

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Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.5
notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 3 pt 3.5 commenced 2 June 2005 (s 2 (1))

Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.8
notified LR 27 October 2005
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))
sch 1 pt 1.8 commenced 24 November 2005 (s 2)

Civil Unions Act 2006 A2006-22 sch 1 pt 1.4
notified LR 19 May 2006
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))
sch 1 pt 1.4 never commenced

Note Act repealed by disallowance 14 June 2006 (see Cwlth Gaz 2006 No S93)

Statute Law Amendment Act 2006 A2006-42 sch 3 pt 3.1
notified LR 26 October 2006
s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))
sch 3 pt 3.1 commenced 16 November 2006 (s 2 (1))

Regulatory Services Legislation Amendment Act 2008 A2008-5 pt 3
notified LR 15 April 2008
s 1, s 2 commenced 15 April 2008 (LA s 75 (1))
pt 3 commenced 1 July 2008 (s 2 and CN2008-7)

Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.3
notified LR 15 May 2008
s 1, s 2 commenced 15 May 2008 (LA s 75 (1))
sch 1 pt 1.3 commenced 19 May 2008 (s 2 and CN2008-8)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.11
notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.11 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

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Civil Partnerships Amendment Act 2009 A2009-41 sch 1 pt 1.1
notified LR 18 November 2009
s 1, s 2 commenced 18 November 2009 (LA s 75 (1))
sch 1 pt 1.1 commenced 19 November 2009 (s 2)

Civil Partnerships Amendment Act 2009 (No 2) A2009-57 sch 1
notified LR 17 December 2009
s 1, s 2 commenced 17 December 2009 (LA s 75 (1))
sch 1 commenced 18 December 2009 (s 2)

Justice and Community Safety Legislation Amendment Act 2011 (No 2) A2011-27 sch 1 pt 1.3
notified LR 30 August 2011
s 1, s 2 taken to have commenced 29 July 2008 (LA s 75 (2))
sch 1 pt 1.3 commenced 13 September 2011 (s 2 (1))

Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.7
notified LR 28 November 2011
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))
sch 3 pt 3.7 commenced 12 December 2011 (s 2)

Civil Unions Act 2012 A2012-40 sch 3 pt 3.4
notified LR 4 September 2012
s 1, s 2 commenced 4 September 2012 (LA s 75 (1))
sch 3 pt 3.4 commenced 11 September 2012 (s 2)

Marriage Equality (Same Sex) Act 2013 A2013-39 sch 2 pt 2.2
notified LR 4 November 2013
s 1, s 2 commenced 4 November 2013 (LA s 75 (1))
sch 2 pt 2.2 commenced 7 November 2013 (s 2 and CN2013-11)

Note The High Court held this Act to be of no effect (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)

Courts Legislation Amendment Act 2014 A2014-1 pt 3
notified LR 5 March 2014
s 1, s 2 commenced 5 March 2014 (LA s 75 (1))
pt 3 commenced 2 April 2014 (s 2)

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Corrections and Sentencing Legislation Amendment Act 2014
A2014-6 pt 2
notified LR 27 March 2014
s 1, s 2 commenced 27 March 2014 (LA s 75 (1))
pt 2 commenced 28 March 2014 (s 2)

Births, Deaths and Marriages Registration Amendment Act 2014
A2014-8
notified LR 27 March 2014
s 1, s 2 commenced 27 March 2014 (LA s 75 (1))
remainder commenced 26 April 2014 (s 2)

Statute Law Amendment Act 2014 A2014-18 sch 3 pt 3.1
notified LR 20 May 2014
s 1, s 2 commenced 20 May 2014 (LA s 75 (1))
sch 3 pt 3.1 commenced 10 June 2014 (s 2 (1))

Crimes (Sentencing and Restorative Justice) Amendment Act 2016
A2016-4 sch 1 pt 1.3
notified LR 24 February 2016
s 1, s 2 commenced 24 February 2016 (LA s 75 (1))
sch 1 pt 1.3 commenced 2 March 2016 (s 2 (1))

Justice Legislation Amendment Act 2016 A2016-7 pt 2
notified LR 29 February 2016
s 1, s 2 commenced 29 February 2016 (LA s 75 (1))
pt 2 commenced 29 August 2016 (s 2 and LA s 79)

Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 3 pt 3.6
notified LR 13 April 2016
s 1, s 2 commenced 13 April 2016 (LA s 75 (1))
sch 3 pt 3.6 commenced 27 April 2016 (s 2)

Births, Deaths and Marriages Registration Amendment Act 2019
A2019-3 pt 2
notified LR 26 February 2019
s 1, s 2 commenced 26 February 2019 (LA s 75 (1))
pt 2 commenced 27 February 2019 (s 2)

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Sentencing (Drug and Alcohol Treatment Orders) Legislation Amendment Act 2019 A2019-31 pt 3

notified LR 9 October 2019
s 1, s 2 commenced 9 October 2019 (LA s 75 (1))
pt 3 commenced 3 December 2019 (s 2 (1) and CN2019-19)

Statute Law Amendment Act 2019 A2019-42 sch 3 pt 3.3

notified LR 31 October 2019
s 1, s 2 commenced 31 October 2019 (LA s 75 (1))
sch 3 pt 3.3 commenced 14 November 2019 (s 2 (1))

Births, Deaths and Marriages Registration (Tissue Donor Acknowledgment) Amendment Act 2020 A2020-17

notified LR 27 May 2020
s 1, s 2 commenced 27 May 2020 (LA s 75 (1))
remainder commenced 6 May 2021 (s 2 (1) and CN2021-3)

Births, Deaths and Marriages Registration Amendment Act 2020 A2020-40

notified LR 20 August 2020
s 1, s 2 commenced 20 August 2020 (LA s 75 (1))
remainder commenced 20 August 2021 (s 2 (2))

Justice and Community Safety Legislation Amendment Act 2021 (No 2) A2021-33 pt 3

notified LR 10 December 2021
s 1, s 2 commenced 10 December 2021 (LA s 75 (1))
pt 3 commenced 31 December 2021 (s 2 (2))

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4 Amendment history

Long title

long title — am A2006-22 amdt 1.13 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.4; A2012-40 amdt 3.13; A2013-39 amdt 2.2 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

Name of Act

s 1 — sub A2005-20 amdt 3.15

Dictionary

s 2 — om R2 LRA
ins A2005-20 amdt 3.16
am A2014-8 s 4

Notes

s 3 — om R2 LRA
ins A2005-20 amdt 3.16

Meaning of *adult* and *child*

s 4 — sub A2005-20 amdt 3.16
am A2006-22 amdt 1.14 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2012-40 amdt 3.14
def ***adult*** om A2005-20 amdt 3.16
def ***authorised celebrant*** om A2005-20 amdt 3.16
def ***birth*** om A2005-20 amdt 3.16
def ***change*** om A2005-20 amdt 3.16
def ***child*** om A2005-20 amdt 3.16
def ***commencement of this Act*** om A2005-20 amdt 3.16
def ***corresponding law*** om A2005-20 amdt 3.16
def ***death*** om A2005-20 amdt 3.16
def ***determined fee*** om A2001-44 amdt 1.339
def ***disposal*** om A2005-20 amdt 3.16
def ***doctor*** om A2005-20 amdt 3.16 (see also A2004-39 amdt 5.3)
def ***funeral director*** om A2005-20 amdt 3.16
def ***prohibited name*** om A2005-20 amdt 3.16
def ***register*** om A2005-20 amdt 3.16
def ***registering authority*** om A2005-20 amdt 3.16
def ***registrable event*** om A2005-20 amdt 3.16
def ***registrable information*** om A2005-20 amdt 3.16
def ***registrar-general*** om A2005-20 amdt 3.16
def ***repealed Act*** om A2005-20 amdt 3.16
def ***stillbirth*** om A2005-20 amdt 3.16
def ***stillborn child*** om A2005-20 amdt 3.16

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Offences against Act—application of Criminal Code etc
s 4A ins A2005-54 amdt 1.47

Notifications of births
div 2.1 hdg (prev pt 2 div 1 hdg) renum R3 LA

Meaning of *birth parent*—pt 2
s 4B ins A2019-3 s 4

Notification of births
s 5 am A2001-44 amdt 1.340, 1.341
sub A2005-54 amdt 1.48
am A2011-52 amdt 3.17; A2014-18 amdt 3.4; A2016-7 s 4, s 5; A2019-3 s 5; A2019-42 amdt 3.4

Registration of births
div 2.2 hdg (prev pt 2 div 2 hdg) renum R3 LA

Meaning of *birth registration statement* for div 2.2
s 6 def ***birth registration statement*** sub A2001-44 amdt 1.342

When registration of birth is required or authorised
s 7 am A2005-20 amdt 3.17; A2019-3 s 6
(6), (7) exp 27 February 2020 (s 7 (7))

Responsibility to have birth registered
s 8 am A2019-3 s 7, s 8; ss renum R28 LA

How to have the birth of a child registered
s 9 am A2005-20 amdt 3.18; ss renum R6 LA (see A2005-20 amdt 3.19); A2005-54 amdt 1.49; A2014-8 s 5; A2019-3 s 9

Obligation to have birth registered
s 10 sub A2005-54 amdt 1.50
am A2014-8 s 5

How births are registered
s 11 am A2005-20 amdt 3.20, amdt 3.21

Alteration of details of birth registration
div 2.3 hdg (prev pt 2 div 3 hdg) renum R3 LA

Addition of details of parentage after registration of birth
s 16 am A2005-20 amdt 3.22; A2006-22 amdt 1.15 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.5; A2011-27 amdt 1.6; ss renum R16 LA; A2012-40 amdt 3.15; A2014-18 amdt 3.1; A2016-18 amdt 3.17, amdt 3.18

Substitute parent information
div 2.4 hdg (prev pt 2 div 4 hdg) ins A2000-51 s 10
renum R3 LA

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Re-registration of parentage order
s 16A ins A2000-51 s 10
am A2004-1 amdt 1.16; A2016-7 s 6

Registration of birth if parentage order made
s 16B ins A2000-51 s 10
am A2004-1 amdt 1.17

Change of name—generally
div 3.1 hdg ins A2014-6 s 4

Application to register change of adult's name
s 18 am A1998-12 s 4; A2001-44 amdts 1.343-1.346
sub A2005-20 amdt 3.23

Application by parent to register change of child's name
s 19 hdg sub A2020-40 s 4
s 19 am A1998-12 s 5; A2001-44 amdts 1.347-1.350; A2005-20 amdt 3.24; A2011-27 amdt 1.7; pars renum R16 LA; A2014-8 s 6

Application by young person to register change of given name
s 19A ins A2020-40 s 5

Registration of change of name
s 20 am A2005-20 amdts 3.25-3.27; A2011-27 amdt 1.8; A2021-33 s 5

Change of name entries in register
s 21 am A1998-12 s 6; A2001-44 amdt 1.351, amdt 1.352
sub A2008-5 s 19
am A2014-18 amdt 3.4; A2016-7 s 7, s 8

Change of name—restricted people
div 3.2 hdg ins A2014-6 s 5

Definitions—div 3.2
s 22A ins A2014-6 s 5
def ***change of name application*** ins A2014-6 s 5
def ***corresponding parole law*** ins A2014-6 s 5
def ***relevant director-general*** ins A2014-6 s 5
def ***restricted person*** ins A2014-6 s 5
am A2016-4 amdt 1.7; A2019-31 s 5

Application for approval for restricted person to make change of name application
s 22B ins A2014-6 s 5

Decision on s 22B application
s 22C ins A2014-6 s 5

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Notice of decision
s 22D ins A2014-6 s 5

Offences—restriction on change of name application by restricted person etc
s 22E ins A2014-6 s 5

Registrar-general must not register change of name without relevant director-general's approval
s 22F ins A2014-6 s 5

Registrar-general may correct register
s 22G ins A2014-6 s 5

Information-sharing
s 22H ins A2014-6 s 5

Protection of security sensitive information
s 22I ins A2014-6 s 5

ACAT or court review—security sensitive information
s 22J ins A2014-6 s 5

Definitions for pt 4
s 23 om A2014-8 s 7
def ***birth certificate*** om A2005-20 amdt 3.28
def ***doctor*** om A2004-39 amdt 5.4
def ***sexual reassignment surgery*** om A2014-8 s 7
def ***transsexual person*** om A2014-8 s 7

People with birth registered in the ACT
div 4.1 hdg ins A2016-7 s 9

Application to alter register to record change of sex
s 24 am A1998-12 s 7; A2001-44 amdts 1.353-1.356
sub A2005-20 amdt 3.29
am A2006-22 amdt 1.16 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.6; A2014-8 s 8, s 9; A2016-7 s 10; A2020-40 s 6, s 7

Evidence in support of application
s 25 sub A2014-8 s 10
am A2016-18 amdts 3.19-3.21; A2016-7 s 11; A2020-40 s 9, s 10; ss, pars renum R33 LA

Issue of birth certificates
s 27 am A2005-20 amdt 3.30; A2014-8 s 11

Use of old birth certificate to deceive
s 28 sub A2005-54 amdt 1.51
am A2014-8 s 11

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Entitlement not affected by change of sex
s 29 hdg sub A2005-20 amdt 3.31
s 29 sub A2014-8 s 12

ACT residents with birth registered elsewhere
div 4.2 hdg ins A2016-7 s 12

Application for recognised details certificate
s 29A ins A2016-7 s 12
am A2020-40 s 11

Evidence in support of application for recognised details certificate
s 29B ins A2016-7 s 12
am A2020-40 s 12, s 13

Issue of recognised details certificate
s 29C ins A2016-7 s 12

Effect of recognised details certificate and interstate recognised details certificate
s 29D ins A2016-7 s 12

ACAT leave for certain applications
pt 4A hdg ins A2020-40 s 14

Application by young person for leave to apply for change of given name or sex etc
s 29E ins A2020-40 s 14
am A2021-33 s 6

Copy of birth certificate for ACAT
s 29EA ins A2021-33 s 7

Notification about application
s 29F ins A2020-40 s 14
am A2021-33 s 8

ACAT hearing an application for leave etc
s 29G ins A2020-40 s 14
sub A2021-33 s 9

ACAT deciding an application for leave
s 29H ins A2020-40 s 14
am A2021-33 s 10

Copy of order for registrar-general
s 29I ins A2020-40 s 14

How to have a marriage registered
s 31 am A2013-39 amdt 2.3 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

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Civil unions

pt 5A hdg — ins A2006-22 amdt 1.17 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))
ins A2008-14 amdt 1.7
sub A2012-40 amdt 3.16

Particulars of end of civil union

s 32A — ins A2006-22 amdt 1.17 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))
ins A2008-14 amdt 1.7
sub A2009-41 amdt 1.1
am A2009-57 amdt 1.1
sub A2012-40 amdt 3.16; A2013-39 amdt 2.4 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

How civil partnerships are registered

s 32AA — ins A2009-41 amdt 1.1
am A2009-57 amdts 1.2-1.6; ss renum R15 LA
om A2012-40 amdt 3.16

How civil union is registered

s 32B — ins A2006-22 amdt 1.17 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))
ins A2008-14 amdt 1.7
sub A2012-40 amdt 3.16
om A2013-39 amdt 2.4 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

Particulars of end of civil union

s 32C — ins A2006-22 amdt 1.17 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))
ins A2012-40 amdt 3.16
om A2013-39 amdt 2.4 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

Civil partnerships

pt 5B hdg — ins A2012-40 amdt 3.16

Particulars of civil partnership

s 32D — ins A2012-40 amdt 3.16

Particulars of end of civil partnership

s 32E — ins A2012-40 amdt 3.16

Transitional—particulars of termination of civil partnership not included before commencement day

s 32F — ins A2012-40 amdt 3.16
exp 11 September 2012 (s 32F (4))

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When registration of deaths is required or authorised
div 6.1 hdg (prev pt 6 div 1 hdg) renum R3 LA

Circumstances in which deaths are not to be registered
s 34 sub A2005-20 amdt 3.32

Notification and registration of deaths
div 6.2 hdg (prev pt 6 div 2 hdg) renum R3 LA

Notification of deaths by doctors
s 35 am A2001-44 amdt 1.357, amdt 1.358; A2005-20 amdt 3.33
sub A2005-54 amdt 1.52
am A2014-1 s 17

Certificates of deaths subject to inquests
s 36 am A2005-20 amdt 3.34
(2)-(4) exp 2 June 2005 (s 36 (4))

Notification by funeral directors etc
s 37 am A2005-20 amdt 3.35
sub A2005-54 amdt 1.53
am A2014-18 amdt 3.4

How deaths are registered
s 38 sub A2005-20 amdt 3.36

Information about tissue donation
s 38A ins A2020-17 s 4

Keeping the register
div 7.1 hdg (prev pt 7 div 1 hdg) renum R3 LA

The register
s 39 am A2005-20 amdt 3.37
(5)-(7) exp 2 June 2005 (s 39 (7))

Inquiries
div 7.2 hdg (prev pt 7 div 2 hdg) renum R3 LA

Registrar-general's powers of inquiry
s 41 am A2005-54 amdt 1.54; A2014-18 amdt 3.4

Access to, and certification of, register entries
div 7.3 hdg (prev pt 7 div 3 hdg) renum R3 LA

Access to register
s 42 am A2001-44 amdt 1.359, amdt 1.360
sub A2005-20 amdt 3.38

Search of register
s 43 am A2001-44 amdt 1.361, amdt 1.362
sub A2005-20 amdt 3.38

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Protection of privacy
s 44 am A2016-7 s 13

Issue of certificates
s 45 am A2005-20 amdt 3.39; A2020-40 s 15; A2021-33 s 11

Additional information and services
div 7 4 hdg (prev pt 7 div 4 hdg) renum R3 LA

Additional services
s 48 am A2001-44 amdt 1.363; A2005-20 amdt 3.40

Offences
div 7.5 hdg (prev pt 7 div 5 hdg) renum R3 LA

False representations
s 49 om A2004-15 amdt 2.18

Unauthorised access to, or interference with, register
s 50 sub A2005-54 amdt 1.55

Confiscation of forged etc instruments
s 51 hdg sub A2004-15 amdt 2.19; A2005-20 amdt 3.41
s 51 am A2004-15 amdt 2.20; ss renum R5 LA (see A2004-15 amdt 2.21); A2005-20 amdt 3.42, amdt 3.44; pars renum R6 LA (see A2005-20 amdt 3.43); A2005-54 amdt 1.56; A2014-18 amdt 3.4; A2016-7 s 14

Confiscation of erroneous or false instruments
s 52 hdg sub A2005-20 amdt 3.45
s 52 am A2005-20 amdts 3.46-3.48; A2005-54 amdt 1.57

Notification and review of decisions
pt 8 hdg sub A2008-37 amdt 1.38

Meaning of *reviewable decision*—pt 8
s 53 sub A2008-37 amdt 1.38

Reviewable decision notices
s 54 exp 2 June 2005 (s 64A (2))
ins A2008-37 amdt 1.38
sub A2014-6 s 6

Applications for review
s 55 exp 2 June 2005 (s 64A (2))
ins A2008-37 amdt 1.38

Transitional provisions
pt 9 hdg exp 2 June 2005 (s 64A (2))

Preliminary
div 9.1 hdg (prev pt 9 div 1 hdg) renum R3 LA
exp 2 June 2005 (s 64A (2))

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Births
div 9.2 hdg (prev pt 9 div 2 hdg) renum R3 LA
exp 2 June 2005 (s 64A (2))

Notifications of births
s 56 exp 2 June 2005 (s 64A (2))

Notification of registrable particulars
s 57 exp 2 June 2005 (s 64A (2))

Medical certificates of causes of stillbirths
s 58 exp 2 June 2005 (s 64A (2))

Changes of name
div 9.3 hdg (prev pt 9 div 3 hdg) renum R3 LA
exp 2 June 2005 (s 64A (2))

Applications
s 59 exp 2 June 2005 (s 64A (2))

Orders of Magistrates Court
s 60 exp 2 June 2005 (s 64A (2))

Deaths
div 9.4 hdg (prev pt 9 div 4 hdg) renum R3 LA
exp 2 June 2005 (s 64A (2))

Notifications of deaths by doctors
s 61 exp 2 June 2005 (s 64A (2))

Notifications by coroners
s 62 exp 2 June 2005 (s 64A (2))

Notifications of disposal of remains
s 63 exp 2 June 2005 (s 64A (2))

Offences
div 9.5 hdg (prev pt 9 div 5 hdg) renum R3 LA
exp 2 June 2005 (s 64A (2))

Avoidance of double jeopardy
s 64 exp 2 June 2005 (s 64A (2))

Expiry of part
div 9.6 hdg ins A2005-20 amdt 3.49
exp 2 June 2005 (s 64A (2))

Expiry etc
s 64A ins A2005-20 amdt 3.49
exp 2 June 2005 (s 64A (2))

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Certificate evidence
s 65 sub A2005-20 amdt 3.50; A2014-8 s 13
am A2016-7 s 15; ss renum R27 LA

Arrangements with States and other Territories
s 66 am A2005-20 amdt 3.51, amdt 3.52

Determination of fees
s 67 sub A2001-44 amdt 1.364
am A2006-42 amdt 3.1

Approved forms
s 69 sub A2001-44 amdt 1.365
am A2005-20 amdt 3.53; A2006-42 amdt 3.1

Regulation-making power
s 70 ins A2001-44 amdt 1.365
am A2004-1 amdt 1.18; A2016-7 s 16

Acts repealed
sch om R2 LRA

Reviewable decisions
sch 1 ins A2008-37 amdt 1.39
am A2014-6 s 7; items renum R21 LA; A2016-7 s 17; items renum R27 LA

Dictionary
dict ins A2005-20 amdt 3.54
am A2006-22 amdt 1.18 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.8; A2008-37 amdt 1.40; A2012-40 amdt 3.17; A2013-39 amdt 2.5, amdt 2.6 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)); A2014-8 s 14; A2014-18 amdt 3.2, amdt 3.3
def ***adult*** ins A2005-20 amdt 3.54
def ***birth*** ins A2005-20 amdt 3.54
def ***birth certificate*** ins A2005-20 amdt 3.54
def ***birth parent*** ins A2019-3 s 10
def ***birth registration statement*** ins A2005-20 amdt 3.54
def ***change of name application*** ins A2014-6 s 8
def ***child*** ins A2005-20 amdt 3.54
def ***corresponding law*** ins A2005-20 amdt 3.54
def ***corresponding parentage law*** ins A2016-7 s 18
def ***corresponding parole law*** ins A2014-6 s 8
def ***death*** ins A2005-20 amdt 3.54
def ***doctor*** ins A2005-20 amdt 3.54
om A2006-42 amdt 3.2
def ***interstate recognised details certificate*** ins A2016-7 s 18

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def ***parental responsibility*** ins A2014-8 s 15
def ***parents*** ins A2005-20 amdt 3.54
def ***prohibited name*** ins A2005-20 amdt 3.54
def ***recognised details certificate*** ins A2016-7 s 18
def ***register*** ins A2005-20 amdt 3.54
def ***registering authority*** ins A2005-20 amdt 3.54
def ***registrable event*** ins A2005-20 amdt 3.54
am A2006-22 amdt 1.19 (A2006-22 rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); A2008-14 amdt 1.9; A2012-40 amdt 3.18; A2013-39 amdt 2.7 (A2013-39 never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))
def ***registrable information*** ins A2005-20 amdt 3.54
def ***relevant director-general*** ins A2014-6 s 8
def ***restricted person*** ins A2014-6 s 8
def ***repealed Act*** ins A2005-20 amdt 3.54
def ***reviewable decision*** ins A2008-37 amdt 1.41
def ***sexual reassignment surgery*** ins A2005-20 amdt 3.54
om A2014-8 s 16
def ***stillbirth*** ins A2005-20 amdt 3.54
def ***stillborn child*** ins A2005-20 amdt 3.54
sub A2019-3 s 11
def ***transsexual person*** ins A2005-20 amdt 3.54
om A2014-8 s 16
def ***young person*** ins A2020-40 s 16

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5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	A1998-12	31 July 1999
2	A2000-51	15 December 2000
3	A2001-44	12 September 2001
4	A2004-1	22 March 2004
5	A2004-15	9 April 2004
6	A2005-20	2 June 2005
7	A2005-20	3 June 2005
8	A2005-20	7 July 2005
9*	A2005-54	24 November 2005
10	A2006-42	16 November 2006
11	A2008-14	19 May 2008
12	A2008-14	1 July 2008
13	A2008-37	2 February 2009
14	A2009-41	19 November 2009
15	A2009-57	18 December 2009
16	A2011-27	13 September 2011
17	A2011-52	12 December 2011
18	A2012-40	11 September 2012
19	A2012-40	12 September 2012
20	A2013-39 (never effective) ≠	7 November 2013
20 (RI)	A2013-39 (never effective) ≠	24 February 2014

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Republication No	Amendments to	Republication date
21	A2014-6	28 March 2014
22	A2014-6	2 April 2014
23	A2014-8	26 April 2014
24	A2014-18	10 June 2016
25	A2016-4	2 March 2016
26	A2016-18	27 April 2016
27	A2016-7	29 August 2016
28	A2019-3	27 February 2019
29	A2019-42	14 November 2019
30	A2019-42	3 December 2019
31	A2019-42	28 February 2020
32	A2020-17	6 May 2021
33	A2020-40	20 August 2021

≠ reissue because of High Court decision in relation to A2013-39

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6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation 'exp' followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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